

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

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| Shirley Kay Christian, Appellant, v. Boone County Board of Review, Appellee. | ORDER Docket No. 13-08-0672 Parcel No. 08-8226-32-42-00-001 Docket No. 13-08-0673 Parcel No. 08-8226-32-14-00-001 Docket No. 13-08-0674 Parcel No. 08-8226-32-41-00-001 |
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On October 29, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board (PAAB). The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Shirley Kay Christian was self-represented. County Attorney Dan Kolacia represented the Board of Review. The Appeal Board now, having heard the testimony, examined the entire record, and being fully advised, finds:

Findings of Fact

Shirley Kay Christian is the owner of property located near Woodward, Boone County, Iowa. The address of the dwelling is 1391 334th Road, Woodward, Iowa. The property is classified as agricultural as of January 1, 2013. The subject property includes three parcels of agricultural realty, a dwelling, and agricultural buildings.

According to the 2013 Assessment Roll, the total site consists of 90.99 acres, of which 38.56 is in the forest reserve and exempt from taxation.¹ Docket 13-08-0672 consists of 20.75 acres assessed at \$29,511. Docket 13-08-0873 consists of 40.0 acres assessed at \$50,590 representing \$45,429 in land

¹ The record contains multiple property record cards and assessment rolls which each list different parcel level assessment figures. Ultimately, we are only concerned with the assessments as determined by the Board of Review.

value and \$5,161 in improvement value. Docket 13-08-0674 consists of 30.24 acres assessed at \$217,761, representing \$61,562 in land value, \$122,308 in dwelling value, and \$35,251 in improvement value. The total assessed value of the three parcels is \$297,862. This information is summarized below.

| <u>Docket Number</u> | <u>Parcel Number</u> | <u>Acres</u> | <u>Assessed Value</u> |
|----------------------|----------------------|--------------|-----------------------|
| 13-08-0672 | 08-8226-32-42-00-001 | 20.75 | \$29,511 |
| 13-08-0673 | 08-8226-32-14-00-001 | 40.00 | \$50,590 |
| 13-08-0674 | 08-8226-32-41-00-001 | 30.24 | \$217,761 |
| Total | | 90.99 | \$297,862 |

Christian protested to the Board of Review regarding her 2013 assessments. She based her claim on the ground that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). She contended the correct total value of the parcels should be \$215,014. The Board granted her request, in part, by reducing her aggregate assessment by \$10,789 to \$287,073. The Board of Review action is summarized below.

| <u>Docket</u> | <u>Acres</u> | <u>Assessed Value</u> | <u>BOR Action</u> | <u>Reduction</u> |
|---------------|--------------|-----------------------|-------------------|------------------|
| 13-08-0672 | 20.75 | \$29,511 | \$29,508 | \$3 |
| 13-08-0673 | 40.00 | \$50,590 | \$41,681 | \$8,909 |
| 13-08-0674 | 30.24 | \$217,761 | \$215,884 | \$1,877 |
| Total | 90.99 | \$297,862 | \$287,073 | \$10,789 |

Christian then appealed to this Board reasserting her claim of over-assessment. She now claims the total assessed value should be \$223,990. Docket 13-08-0672 should be assessed at \$12,344, Docket 13-08-0673 should be assessed at \$29,720, and Docket 13-08-0674 should be assessed at \$181,926.

| <u>Docket</u> | <u>Assessed Value</u> | <u>BOR Action</u> | <u>Christian Value Claim</u> |
|---------------|-----------------------|-------------------|------------------------------|
| 13-08-0672 | \$29,511 | \$29,508 | \$12,344 |
| 13-08-0673 | \$50,590 | \$41,681 | \$29,720 |
| 13-08-0674 | \$217,761 | \$215,884 | \$181,926 |
| Total | \$297,862 | \$287,073 | \$223,990 |

Christian testified she appealed to PAAB because the Board of Review would not listen to her evidence. She described her concerns with the short-time frame the Board of Review provided for her to discuss her proof and inaccuracies with the Board of Review minutes. She was concerned about the boundaries of the land which the county had not yet corrected.

Christian disputes the Assessor's determination of what areas of her land are tillable. Christian stated not all the land outside of the Forest Reserve acres is tillable. She provided USDA Farm Service Agency maps to demonstrate which areas she asserts are tillable and non-tillable. (Exhibit 11). Additionally, she also submitted a map of the property with explanations as to why certain portions are non-tillable. (Exhibit 12). Exhibit 12 demonstrates that Christian believes some areas are non-tillable due to the existence of roads, wells, ravines, trees, natural gas lines, buried structures, water spots, and that other areas are not accessible. The following chart indicates what non-exempt portions of the properties each party contends is non-tillable.

| | Christian | Board of Review |
|---------------|---------------------|------------------------|
| <u>Docket</u> | <u>Non-tillable</u> | <u>Non-tillable</u> |
| 13-08-0672 | 2.6 | 0.26 |
| 13-08-0673 | 4.05 | 1.18 |
| 13-08-0674 | 8.07 | 0.44 |

In terms of her property's productivity, Christian asserts it is not as productive as the corn suitability ratings (CSR) suggest. She testified that she believes the soil should be rated at the lowest USDA CSR. She submitted a Pioneer Yield Map, which shows that the perimeter of Christian's property provides yields of less than 86 bushels per acre. (Exhibit 13). The Yield Map also shows the 28.48 harvested acres had an average yield of 124.83 bushels per acre in 2010. Christian also testified deer have destroyed some of her crops and made her operation less profitable. She obtained deer depredation permits from the Iowa Department of Natural Resources for the last four years because the deer were damaging her crops. Finally, Christian testified to the environmental stewardship practices she employs and how these practices limit the earning capacity of the property.

Christian also testified about the soil types on her farm and how the CSR varied. She testified that when trying to figure out the assessment she used a rate of \$22.58 per CSR, which she claims the Assessor's Office provided to her. The rate of \$22.58 per CSR was used in 2011, but the Assessor increased the rate to \$30.50 in 2013. This explains most of the difference between her calculations and the assessment. There was also a difference of opinion on how to assess the non-tillable acres. Christian believes that some of her land has no value and should be assessed accordingly.

Christian explained how she arrived at what she believes should be the property's correct assessed value. (Exhibits 18-20). She also stated that some of the information did not reconcile and she needed to come to this hearing just to get things straightened out. Christian also testified there was no dispute on the improvement value of the property, only the land value. We believe that Christian was very credible and sincere in her desire find out why there were differences between her calculations and the January 1, 2013, assessment. However, we find the variation between her calculations and the assessment results from Christian's use of the 2011 dollar per CSR point (22.58) and differences in tillable/non-tillable acres.

Boone County Assessor Paul Overton testified for the Board of Review. Overton testified as to the assessment history of agricultural properties in the county. He noted previous assessment and Board of Review procedures resulted in inequitable assessments among agricultural properties in the county which, without remediation, would have resulted in an equalization order. He explained 2011 was the first year the county used CSRs to value agricultural land and his office revised and improved the method for 2013. He admitted there were a number of problems in the 2011 valuations that have been rectified for 2013. He explained the dollar value per CSR point was \$22.58 in 2011 and changed to \$30.50 in 2013.

Overton testified regarding the use of GIS mapping technology for determining what acres are considered non-tillable and tillable. (Exhibit H). Although Overton recognized errors in the GIS

maps, he stated the correct figures were utilized in calculating the parcel's tillable and non-tillable acres. Overton also note the Board of Review's reduction of Docket No. 13-08-0673 actually removed the amount of the forest reserve from the assessment and he believes that parcel is now undervalued. Additionally, Overton stated the Assessor's Office made an error on all properties containing a non-tillable use layer, which actually resulted in a double reduction for non-tillable acres and a benefit to those property owners. After consultation with the Department of Revenue, the Assessor's Office left this error in place, but it will be corrected in the next assessment.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Iowa Code section 441.21(1)(e) provides that agricultural real estate be assessed at its actual value by giving exclusive consideration to its productivity and net earning capacity. In determining the productivity and net earning capacity of agricultural real estate, the assessor is required to use available data from Iowa State University, the Iowa crop and livestock reporting service, the Department of Revenue, the *Iowa Real Property Manual*, and to consider the results of a modern soil survey, if completed. Iowa Code § 441.21(1)(f); Iowa Administrative Code r. 701-71.3. Christian's parcels all carry an agricultural classification, which requires that they are valued using the set formula. *See* Iowa Admin. Code rule 701-71.3, 701-71.12.

It appears to this Board that Christian's primary concerns relate to the dollar value per CSR applied to her property and the determination of which acres are tillable and non-tillable. Although Christian asserts the Assessor's Office informed her that the dollar value per CSR was \$22.58, Overton testified the Assessor's Office used \$30.50 per CSR to value agricultural property in 2013. It appears to this Board that Overton is attempting to rectify past actions which effectively resulted in inequitable treatment among agricultural property owners. Therefore, while we find Christian's testimony that she was told the dollar value per CSR for 2011 was \$22.58 to be credible, it would cause inequity to modify Christian's assessment to \$22.58 per CSR when all other agricultural property owners in the county are assessed at \$30.50 per CSR.

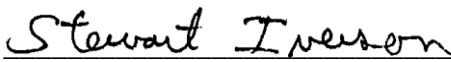
In light of the amendment to Iowa Administrative Code Rule 701-71.3(1), we suggest the Assessor's Office arrange for an inspection of Christian's property to determine which areas would be considered cropland and non-cropland under the amended rule. While full implementation of the amended rule is not required until 2017, taxpayers may apply for adjustments starting with the 2014 assessments. R. 701-71.3(1)(c). We understand that Overton intends to implement the rule for the 2014 assessments. Based on the evidence and testimony, it appears to this Board that portions of

Christian's property now considered tillable may actually be considered non-cropland under guidance issued by the Department of Revenue.

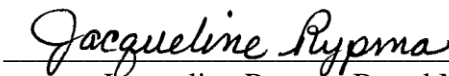
In conclusion, we believe Overton is following the assessment methods prescribed by Iowa law and has assessed Christian's property consistent with other agricultural property in Boone County. We find that Christian has failed to prove that her property is assessed for more than the value authorized by law.

THE APPEAL BOARD ORDERS the assessment of the Shirley Kay Christian property located near Woodward, Boone County, Iowa, as set by the Boone County Board of Review is affirmed.

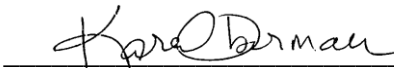
Dated this 2nd day of December, 2013.



Stewart Iverson, Presiding Officer



Jacqueline Rypma, Board Member



Karen Oberman, Board Member

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